

# The Department of Water Resources

## Public Participation Process For Proposed Changes To The Water Supply Contracts Between The Department Of Water Resources And The State Water Project Contractors

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## **GOALS AND OBJECTIVES**

This document describes the procedures that will be followed to enable members of the public to observe and comment on negotiations between the California Department of Water Resources (“DWR”) and State Water Project (“SWP”) contractors (“Contractors”) regarding proposed changes to their long-term water supply contracts. This document has been prepared in accordance with the “Principles Regarding Public Participation Process In SWP Contract Negotiations,” which were approved as part of the settlement agreement reached in the case titled, *Planning and Conservation League et al. v. Department of Water Resources*, 83 Cal. App. 4th 892 (2000) (hereafter “Principles”). A copy of these Principles is attached.

**ACTIVITIES COVERED:** Consistent with the Principles, the procedures outlined in this document apply to the negotiation of: (1) project-wide contract amendments, i.e., amendments with similar terms that are intended to be offered to all Contractors; and (2) contract amendments that would result in the transfer Table A amounts between existing Contractors (collectively “Covered Amendments”). These procedures do not apply to informal discussions between DWR and the Contractors that occur prior to the exchange of formal drafts of Covered Amendments, or to the discussion of topics that are authorized by law to be kept confidential.

## **NOTICE OF NEGOTIATIONS**

1. **Timing of Notices:** DWR will provide notice at least fifteen (15) calendar days prior to each negotiation session involving Covered Amendments, but may provide less notice if circumstances warrant. In no event shall a notice of negotiation session (“Negotiation Notice”) involving a Covered Amendment be provided less than 72 hours in advance.
2. **Publication of Notices:** All Negotiation Notices will be published on DWR’s contract extension website at [www.water.ca.gov/swpao/watercontractextension](http://www.water.ca.gov/swpao/watercontractextension) . Members of the public may also call (916) 651-6948 for information about upcoming negotiation sessions. In addition, members of the public may request that they be notified by email of future negotiation sessions. Any person wishing such notice must send an email to DWR at [watercontractextension@water.ca.gov](mailto:watercontractextension@water.ca.gov) with the text “Email Notification Request” in the subject line, and their name and email address in the body of the email message. Please note that it is the requester’s responsibility to ensure that the correct email address is kept on file with DWR at all times.
3. **Agendas:** DWR will endeavor to prepare a proposed agenda for each negotiation session and to include that agenda with the applicable Negotiation Notice.
4. **Documents:** Documents pertinent to the negotiations will be made available to the public on the DWR SWP contract extension website prior to the date of each negotiating session to the extent documents are available prior to the negotiating session.

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## **PUBLIC PARTICIPATION:**

1. **Location of Negotiation Sessions:** Unless otherwise specified in the Negotiation Notice, all negotiation sessions involving Covered Amendments will be conducted in Sacramento, California.
2. **Observation and Comment:** All negotiation sessions involving Covered Amendments are open to the public. Comments may be made orally at the end of each negotiation session. Interruptions during the negotiation session will not be permitted. DWR reserves the right to limit the duration of oral comments to a specified time period, if necessary, to accommodate all persons wishing to speak. In addition, members of the public will be given an opportunity to provide written comments relevant to the issues discussed during that negotiation session. DWR will consider all comments submitted by members of the public, but is not obligated to respond to the public's verbal or written comments. The written comments may also be submitted within seven (7) days following the negotiation session to which they relate:

**By Email:** [watercontractextension@water.ca.gov](mailto:watercontractextension@water.ca.gov)

Subject Line: "Comments on SWP Contract Amendment"

**By U.S. Mail:** Scott Jercich, Program Manager for Contract Extension  
California Department of Water Resources  
1416 Ninth Street, Room 1640-H4  
Sacramento, CA 94236-0001.

3. **Documents -- General:** Documents prepared for or pertinent to negotiations involving Covered Amendments will be posted on DWR's SWP contract amendment website, [www.water.ca.gov/swpao/watercontractextension](http://www.water.ca.gov/swpao/watercontractextension) . To the extent available, DWR will post such documents prior to the negotiation session at which they will be discussed. This provision does not apply to documents that are privileged, confidential or otherwise exempt from disclosure under the California Public Records Act or other applicable laws.
4. **Documents -- Contract Amendments:** Once all negotiations are completed, a copy of the Covered Amendments being proposed for approval and execution by DWR and the Contractors will be posted on the DWR's SWP contract amendment website, [www.water.ca.gov/swpao/watercontractextension](http://www.water.ca.gov/swpao/watercontractextension) . Members of the public shall have thirty (30) days after posting to submit written comments to either of the addresses listed in (2) above. Again, DWR welcomes and will consider all such comments, but will not provide formal responses.

**RELATIONSHIP TO THE CEQA:** The process outlined in this document does not replace or supplant any requirements for public participation and comment that may be applicable under the California Environmental Quality Act, Public Resources Codes section 21000 et seq. ("CEQA"). DWR and the Contractors will determine what level and scope of environmental review is required under CEQA for their respective agencies, prior to approval and execution of the Covered Amendments.

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## ATTACHMENT D

### PRINCIPLES REGARDING PUBLIC PARTICIPATION PROCESS IN SWP CONTRACT NEGOTIATIONS

*Note: These principles are prepared in connection with the settlement agreement between PCL and DWR and are only effective pursuant to the terms therein.*

1. **Policy:** Given the importance of the State Water Project to the State of California, and the key role that the long-term water supply contracts play in the administration of the State Water Project, DWR agrees that public review of significant changes to these contracts is beneficial and in the public interest.
2. **Types of activities to be covered:** Project-wide contract amendments (i.e., contracts with substantially similar terms intended to be offered to all long-term SWP Contractors) and contract amendments to transfer entitlements between existing SWP Contractors will not be offered to the contractors for execution unless DWR has first complied with the public participation process as described in paragraphs (3), (4), (5) and (6).
3. **The Public Participation Process.**
  - 1) Negotiations will be conducted in public;
  - 2) The public will be provided with advance notice of the time and place of the negotiations;  
and
  - 3) The public will be provided the opportunity to observe negotiations and comment in each negotiating session
4. **Timing of Public Participation:** Public participation ordinarily will precede the formulation of the project description in the CEQA process in order to assure that the public participation is meaningful. When DWR is a responsible agency, (e.g., when existing SWP Contractors agree to transfer entitlement between themselves), the public participation will be scheduled to facilitate coordination with the lead agency's CEQA process.
5. **Activities that will not be subject to public participation:** Informal discussions prior to exchange of formal drafts and discussion of topics that are authorized to be kept confidential by law will not be subject to the public participation process.
6. **Contract amendments resulting from litigation:** If litigation has been formally initiated, and settlement negotiations result in a proposal to adopt project-wide amendments to settle the litigation, all proposed contract amendments shall be subject to the public participation process before they are approved by DWR.